IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.SASIDHARAN NAMBIAR

TUESDAY, THE 23RD JANUARY 2007 / 3RD MAGHA 1928

WP(C).No. 2632 of 2007(L)

OP(ELECTION).12/2005 of MUNSIFF COURT, KODUNGALLUR

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PETITIONER:

JAYALAKSHMY @ JAYALAKSHMY TEACHER,
PADINJAREKARA VEETIL,
SREE BNARAYANA PURAM VILLAGE,
KODUNGALLUR THALUK.

BY ADV. SRI.K.S.RAJESH
SRI.M.SHAJU PURUSHOTHAMAN

RESPONDENTS:

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1. SHINJI @ SHINJI AJITHAN,
THAVARAM KUNNATH, SREENARAYANAPURAM VILLAGE,
KODUNGALLUR THALUK.

2. SHARMILA, W/O SATHYAN,
THUPPRATH VEETIL, EDAVELINGU DESAM,
SRE NARAYANAPURAM VILLAGE,
KODUNGALLUR TALUK.

3. SHOBANA RAJU,
PARUMBILLSERRY,
P.O.KOTHAPARAMBU,
KODUNGALLUR THALUK.

BY //

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 23/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.SASIDHARAN NAMBIAR,J.

W.P.(C) .NO. 2632 OF 2007

Dated 23rd January 2007

J U D G M E N T

Petitioner is the petitioner in Election O.P.12/2005 on the file of Munsiff court, Kodungallur. Respondents are respondents in the election O.P. Petitioner filed I.A.30/2007 an application to recall PW2 the returning officer who was examined earlier, for marking certain documents alleging that his counsel at the time of examination of PW2 omitted to mark the documents. Learned Munsiff dismissed the application holding that there is no sufficient grounds to allow the application. This petition is filed under Article 227 of Constitution of India challenging the dismissal of Ext.P3 application under Ext.P4 order.

2. Learned counsel appearing for petitioner was heard.

3. When an application is filed for re-calling a witness who was earlier examined stating that his counsel omitted to mark certain documents, which were

already on the records, stating that it was due to the mistake committed by counsel learned Munsiff should not have rejected the application. For the fault of counsel party shall not be asked to suffer. In such circumstance, learned Munsiff, Kodungallur is directed to re-consider Ext.P3 and pass appropriate order in accordance with law.

Writ petition is disposed accordingly.

M.SASIDHARAN NAMBIAR,
JUDGE.

uj.